

MINUTES
MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chairman Ron Stoker, on March 5, 2009 at 8:01
A.M., in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Ron Stoker, Chairman (R)
Rep. Deborah Kottel, Vice Chairman (D)
Rep. Ken Peterson, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. David Howard (R)
Rep. Krayton Kerns (R)
Rep. Margaret MacDonald (D)
Rep. Edith (Edie) McClafferty (D)
Rep. Mike Menahan (D)
Rep. Michael More (R)
Rep. Keith Regier (R)
Rep. Diane Sands (D)
Rep. Bob Wagner (R)
Rep. Wendy Warburton (R)

Members Excused: None

Members Absent: None

Staff Present: Jennifer Eck, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 157, 2/25/2009; SB 160,
2/25/2009; SB 169, 2/25/2009;
SB 256, 2/25/2009

Executive Action: HB 318, SB 160, SB 256, SB 157,
SB 169, HB 525, SB 91, SB 103,
SB 96, SB 108

HEARING ON SB 160

Opening Statement by Sponsor:

00:00:47 Sen. Larry Jent (D), SD 32, opened the hearing on SB 160, Clarify statutory disciplinary procedures for highway patrol.

Proponents' Testimony:

00:02:33 Ali Bovingdon, Assistant Attorney General, Attorney General's Office

[EXHIBIT\(juh49a01\)](#)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:05:44 Rep. Peterson
00:05:58 Ms. Bovingdon
00:05:59 Rep. Peterson
00:06:15 Ms. Bovingdon
00:06:44 Rep. Peterson
00:07:18 Ms. Bovingdon
00:07:55 Rep. Peterson
00:08:35 Ms. Bovingdon
00:08:48 Rep. Peterson

Closing by Sponsor:

00:09:01 Sen. Jent

00:09:27 Chairman Stoker

HEARING ON SB 256

Opening Statement by Sponsor:

00:09:55 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 256, Revise access to youth court records for JDIP evaluations.

Proponents' Testimony:

00:11:52 Lois Menzies, Court Administrator, Montana Supreme Court

00:12:30 Chairman Stoker

00:12:34 Ms. Menzies

00:13:42 Chairman Stoker

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:14:12 Sen. Shockley

00:14:18 Chairman Stoker

HEARING ON SB 157

Opening Statement by Sponsor:

00:14:29 Sen. Jim Shockley (R), SD 45, opened the hearing on SB 157, Audio-video hearings for certain mental health proceedings.

00:17:39 Chairman Stoker

Proponents' Testimony:

00:17:47 Anita Roessman, Disability Rights Montana

00:20:42 Jim Smith

00:20:46 Chairman Stoker

00:20:48 Jim Smith

00:21:44 Chairman Stoker

00:21:55 Matt Kuntz, National Alliance for Mental Illness

00:23:10 Chairman Stoker

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:23:45 Rep. More

00:23:54 Sen. Shockley

00:23:55 Rep. More

00:24:32 Sen. Shockley

00:25:08 Rep. More

00:25:16 Chairman Stoker

00:25:27 Ms. Roessman

00:26:41 Rep. Menahan
00:27:15 Ms. Roessman
00:27:25 Rep. Menahan
00:28:16 Ms. Roessman
00:28:37 Rep. Menahan
00:28:37 Chairman Stoker
00:29:03 Ms. Roessman
00:29:24 Chairman Stoker

Closing by Sponsor:

00:29:34 Sen. Shockley

00:30:13 Chairman Stoker

HEARING ON SB 169

Opening Statement by Sponsor:

00:30:44 Sen. Kelly Gebhardt (R), SD 23, opened the hearing on
SB 169, Revise drug testing requirements for public
officers.

00:32:20 Chairman Stoker

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:32:49 Rep. Sands
00:33:01 Sen. Gephardt
00:34:33 Rep. Sands
00:34:51 Sen. Gephardt
00:34:57 Rep. Sands
00:35:45 Sen. Gephardt
00:37:43 Rep. Kottel
00:38:09 Sen. Gephardt
00:38:38 Rep. Kottel
00:38:42 Sen. Gephardt
00:39:02 Rep. Kottel
00:40:01 Sen. Gephardt
00:40:43 Rep. Kottel
00:40:46 Sen. Gephardt
00:41:12 Rep. Bennett
00:41:50 Sen. Gephardt

00:42:25 Rep. Bennett
00:42:31 Sen. Gephardt
00:43:10 Rep. Ebinger
00:43:36 Sen. Gephardt
00:44:59 Rep. Ebinger
00:45:00 Rep. Peterson
00:45:44 Sen. Gephardt
00:46:23 Rep. Peterson
00:46:58 Sen. Gephardt
00:48:03 Rep. Peterson
00:48:10 Rep. Becker
00:48:57 Sen. Gephardt
00:50:29 Chairman Stoker
00:50:33 Rep. Howard
00:51:01 Sen. Gephardt
00:51:16 Rep. Howard
00:51:18 Chairman Stoker
00:51:55 Sen. Gephardt
00:52:14 Chairman Stoker

Closing by Sponsor:

00:52:21 Sen. Gephardt

00:53:04 Chairman Stoker
00:53:17 Sen. Gephardt
00:53:59 Chairman Stoker

00:54:29 Recess
01:13:59 Reconvene

EXECUTIVE ACTION ON HB 318

01:14:20 **Motion:** Rep. Peterson moved that **HB 318 DO PASS.**

01:14:25 Chairman Stoker

01:14:27 **Motion:** Rep. Kottel moved that **HB 318 BE AMENDED.**
EXHIBIT(juh49a02)

Discussion:

01:14:36 Chairman Stoker
01:14:43 Rep. Kottel
01:24:50 Rep. Peterson
01:25:34 Rep. Kottel
01:26:27 Rep. Peterson
01:26:52 Rep. Kottel
01:27:47 Chairman Stoker

01:27:59 Rep. Kottel
 01:28:12 Chairman Stoker
 01:28:18 Rep. Peterson
 01:28:59 Rep. Kottel
 01:29:05 Rep. Peterson
 01:29:20 Rep. Kottel
 01:29:23 Rep. Peterson
 01:29:35 Rep. Kottel

01:30:08 **Substitute Motion/Vote:** Rep. Peterson made a substitute motion **TO SEGREGATE AMENDMENTS 1-6 AND 8-20** (refer to Exhibit 2). Substitute motion carried unanimously by voice vote. Rep. Kerns and Rep. Blewett voted by proxy.

01:30:39 Rep. Kottel
 01:30:43 Chairman Stoker

01:30:46 **Motion:** Rep. Peterson moved that **HB 318 BE AMENDED** (refer to Exhibit 2, Amendments 1-6 and 8-20).

01:30:57 Rep. Regier
 01:31:14 Rep. Kottel
 01:31:32 Rep. Regier
 01:31:40 Rep. Kottel
 01:32:07 Chairman Stoker
 01:32:20 Rep. Kottel
 01:32:59 Chairman Stoker
 01:33:22 Ms. Bovingdon
 01:33:49 Chairman Stoker
 01:33:56 Rep. Kottel
 01:34:16 Ms. Bovingdon
 01:36:05 Chairman Stoker
 01:36:18 Rep. Kottel
 01:36:23 Chairman Stoker
 01:36:37 Rep. Sands called the question.
 01:36:42 Chairman Stoker

01:36:47 **Vote:** Motion that **HB 318 BE AMENDED** carried unanimously by voice vote. Rep. Blewett and Rep. Kerns voted by proxy.

01:37:15 **Motion:** Rep. Peterson moved that **HB 318 DO PASS AS AMENDED.**

Discussion:

01:37:39 Rep. Howard
 01:38:27 Chairman Stoker

01:38:35 Rep. Kottel
 01:44:20 Chairman Stoker
 01:44:23 Rep. Peterson called the question.
 01:44:26 Rep. Bennett
 01:44:38 Chairman Stoker
 01:44:38 Rep. Kottel
 01:44:39 Rep. Bennett
 01:44:55 Rep. Kottel
 01:45:39 Chairman Stoker

 01:45:42 **Vote:** Motion that **HB 318 DO PASS AS AMENDED** carried 17-1 by roll call vote with Rep. Kerns voting no. Rep. Kerns and Rep. Blewett voted by proxy.

 01:46:38 Chairman Stoker

EXECUTIVE ACTION ON SB 160

01:46:59 **Motion:** Rep. Peterson moved that **SB 160 BE CONCURRED IN.**

 01:47:08 Chairman Stoker
 01:47:25 Rep. Sands called the question.

 01:47:29 **Vote:** Motion carried unanimously by voice vote. Rep. Kerns and Rep. Blewett voted by proxy.

 01:47:54 Chairman Stoker

EXECUTIVE ACTION ON SB 256

01:48:12 Chairman Stoker

 01:48:21 **Motion:** Rep. Peterson moved that **SB 256 BE CONCURRED IN.**

 01:48:28 Chairman Stoker
 01:48:32 Rep. Sands called the question.

 01:48:39 **Vote:** Motion carried unanimously by voice vote. Rep. Blewett and Rep. Kerns voted by proxy.

EXECUTIVE ACTION ON SB 157

01:49:22 **Motion:** Rep. Peterson moved that **SB 157 BE CONCURRED IN.**

 01:49:29 Chairman Stoker
 01:49:32 Rep. Sands called the question.

01:49:37 **Vote:** Motion carried unanimously by voice vote. Rep. Blewett and Rep. Kerns voted by proxy.

EXECUTIVE ACTION ON SB 169

01:50:05 Chairman Stoker

01:50:22 **Motion:** Rep. Peterson moved that **SB 169 BE CONCURRED IN.**

Discussion:

01:50:40 Rep. Kottel

01:51:46 Rep. Bennett

01:52:26 **Substitute Motion:** Rep. Driscoll made a substitute motion that **SB 169 BE TABLED.**

01:52:38 Chairman Stoker

01:52:44 Rep. Peterson

01:52:57 Chairman Stoker

01:53:00 **Vote:** Motion that **SB 169 BE TABLED** carried unanimously by voice vote. Rep. Kerns and Rep. Blewett voted by proxy.

EXECUTIVE ACTION ON HB 525

01:53:42 Chairman Stoker

01:53:44 **Motion:** Rep. Peterson moved that **HB 525 DO PASS.**

01:53:54 Chairman Stoker

01:54:01 Mr. Niss

EXHIBIT(juh49a03)

01:54:26 Rep. Driscoll

01:54:34 Chairman Stoker

01:54:44 Rep. Driscoll

01:55:23 **Motion:** Rep. More moved that **HB 525 BE AMENDED** (refer to Exhibit 3).

Discussion:

01:55:33 Chairman Stoker

01:55:42 Rep. More

01:56:22 Chairman Stoker

01:56:29 Rep. Peterson called the question.

01:56:37 **Vote:** Motion carried unanimously by voice vote. Rep. Kerns and Rep. Blewett voted by proxy.

01:56:58 **Motion:** Rep. Peterson moved that **HB 525 DO PASS AS AMENDED.**

Discussion:

01:57:15 Rep. Ebinger
 01:57:32 Rep. Kerns rejoined the meeting.
 01:57:37 Chairman Stoker
 01:58:03 Rep. Peterson
 01:59:09 Rep. Menahan
 02:00:52 Chairman Stoker
 02:01:03 Rep. Menahan
 02:01:51 Chairman Stoker
 02:01:54 Rep. Peterson called the question.
 02:01:58 Rep. Howard
 02:02:45 Rep. Menahan
 02:02:48 Chairman Stoker

02:02:53 **Vote:** Motion failed 4-14 by roll call vote with Rep. MacDonald, Rep. Driscoll, Rep. McClafferty, and Rep. Blewett voting aye. Rep. Blewett voted by proxy.

02:03:55 **Motion/Vote:** Rep. Kerns moved that **HB 525 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Rep. Blewett voted by proxy.

02:04:32 Chairman Stoker
 02:06:13 Rep. Wagner
 02:06:16 Chairman Stoker
 02:06:37 Rep. Howard
 02:06:41 Rep. Bennett
 02:06:52 Chairman Stoker

EXECUTIVE ACTION ON SB 91

02:08:20 **Motion:** Rep. Peterson moved that **SB 91 BE CONCURRED IN.**

Discussion:

02:08:24 Chairman Stoker
 02:09:06 Rep. Menahan
 02:10:20 Rep. More exited meeting.
 02:10:38 Rep. Peterson
 02:11:22 Rep. Kottel
 02:14:04 Rep. Howard

02:14:16 Rep. Peterson
 02:14:17 Rep. Howard
 02:14:43 Rep. Peterson
 02:14:53 Rep. Howard
 02:14:58 Rep. Sands called the question.
 02:15:02 Chairman Stoker

 02:15:29 **Vote:** Motion carried 13-5 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, and Rep. Howard voting no. Rep. Blewett and Rep. More voted by proxy.

 02:16:28 Chairman Stoker
 02:16:36 Rep. Sands
 02:16:48 Rep. Regier
 02:16:58 Chairman Stoker
 02:17:04 Rep. Regier
 02:17:17 Rep. Peterson
 02:17:22 Chairman Stoker

EXECUTIVE ACTION ON SB 96

02:17:34 **Motion:** Rep. Peterson moved that **SB 96 BE CONCURRED IN.**

 02:17:50 Chairman Stoker
 02:18:23 Rep. MacDonald
 02:18:29 Rep. Menahan
 02:18:33 Chairman Stoker

 02:18:37 **Substitute Motion:** Rep. Menahan made a substitute motion that **SB 96 BE INDEFINITELY POSTPONED.**

 02:18:44 Chairman Stoker accepted the motion.

EXECUTIVE ACTION ON SB 103

02:19:05 **Motion:** Rep. Peterson moved that **SB 103 BE CONCURRED IN.**

Discussion:

02:19:11 Chairman Stoker
 02:20:32 Rep. Menahan
 02:21:49 Rep. More rejoined meeting.
 02:23:36 Chairman Stoker
 02:23:51 Rep. Menahan
 02:23:57 Rep. Peterson
 02:24:59 Chairman Stoker

02:25:03 Rep. Sands called the question.

02:25:07 **Vote:** Motion carried 16-2 by voice vote with Rep. Wagner and Rep. More voting no. Rep. Blewett voted by proxy.

02:25:23 Rep. Menahan

02:25:33 Chairman Stoker

02:25:36 Rep. Menahan

02:25:40 Chairman Stoker

EXECUTIVE ACTION ON SB 108

02:26:16 **Motion:** Rep. Peterson moved that **SB 108 BE CONCURRED IN.**

Discussion:

02:26:33 Chairman Stoker

02:26:43 Rep. More

02:27:36 Rep. Kottel

02:28:54 Chairman Stoker

02:28:58 Rep. Peterson

02:29:40 Chairman Stoker

02:29:43 Rep. Sands called the question.

02:29:48 **Vote:** Motion failed 1-17 by roll call vote with Rep. Menahan voting aye. Rep. Blewett voted by proxy.

02:31:01 **Substitute Motion/Vote:** Rep. Sands made a substitute motion that **SB 108 BE TABLED AND THE VOTE REVERSED.** Substitute motion carried unanimously by voice vote. Rep. Blewett voted by proxy.

02:31:22 Chairman Stoker

ADJOURNMENT

Adjournment: 12:00 P.M.

Jennifer Eck, Secretary

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Additional Documents:

EXHIBIT ([juh49aad.pdf](#))